IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

Crl.MC.No. 721 of 2007(S)

AGAINST THE ORDER DATED / / IN IA 43/2007 IN MC.208/2006 of

.....

PETITIONER: COUNTER PETITIONER

SANU MON, S/O.KARUNAKARAN NADAR,
SAJU BHAVAN, VARUVILA NEAR POTHENKADU SCHOOL,
THIRUPURAM P.O., THIRUPURAM VILLAGE,
NEYYATTINKARA TALUK.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: PETITIONERS

---

1. GREESHMA, D/O.STELLA, GREESHMA BHAVAN,
KATTIKODU P.O., KATTAKKADA KULATHUMMAL VILLAGE,
NEYYATTINKARA TALUK.

2. NAKSHTRA, D/O.SANUMON, AGED
(1 AND A HALF YEAR)(MINOR)
GREESHAMA BHAVAN, KATTIKODU P.O.,
KATTAKKADA, KULATHUMMAL VILLAGE,
NEYYATTINKARA TALUK.

BY ADV. SRI.J.JAYAKUMAR
SMT.SARITHA SUNIL

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 721 OF 2007

Dated this the 13th day of April, 2007

ORDER

Against the petitioner, an ex parte order of maintenance has been passed under Sec.125 of the Cr.P.C. by the Family Court, Nedumangad, directing the petitioner to pay an amount of Rs.1,000/- each per mensem to the claimants – his wife aged 20 years and child aged 1 ½ years. The order was passed ex parte. According to the petitioner, he could not appear before the court and file a counter statement on account of reasons beyond his control. His application to set aside the ex parte order was considered leniently by the learned Judge of the Family Court and there was a direction that the ex parte order shall stand set aside on condition that the petitioner deposits an amount of Rs.6,500/-. The petitioner, who did not pay the amount, came to this Court with a prayer that the said order may be set aside.

2. As per the interim order passed by this Court, an amount of Rs.3,500/- was directed to be paid.

3. I have heard the learned counsel for the petitioner. There is no representation for the respondents. The jurisdiction that I am called upon to invoke and exercise is the extraordinary inherent jurisdiction under Sec.482 of the Cr.P.C. In the facts and circumstances of this case, I find no vice vitiating the order which would justify the invocation of the extraordinary inherent jurisdiction.

4. Marriage is admitted. Paternity is admitted. Separate residence is also conceded. The learned Judge of the Family Court has granted the petitioner an opportunity to raise his contentions and take part in the proceedings. I am, in these circumstances, satisfied that an observation can be made that the amount of Rs.6,500/-, which is directed to be paid, shall subject to the final orders to be passed in the M.C., be adjusted towards any such liability that may ultimately be imposed on the petitioner. The impugned order can be upheld.

4. In the result, this Crl.M.C. is dismissed. But it is clarified that the amount of Rs.6,500/- if deposited shall liable to be adjusted towards the amount of final order of maintenance

which may ultimately be passed in the proceedings. The petitioner has been directed to pay the amount by 16/3/07. It is made clear that the petitioner shall now have time till 30/4/07 to make such payment.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge